

processed food, particularly vinegar, apple juice, apple cider, and fermented vinegar stock, a large part of which was being shipped in interstate commerce; that the defendants manufactured and stored in Canon City, Colo., from about the middle of August 1946 to the latter part of October 1946, in 20,000-gallon tanks, large quantities of apple juice, apple cider, and vinegar stock which were adulterated under Sections 402 (a) (3) and (4); that the defendants were shipping and causing the shipment in interstate commerce of large quantities of the said products; that the defendants had shipped and intended to make further shipments of these products from Canon City, Colo., to Wichita and Hutchinson, Kans., where they would be further processed into vinegar and shipped throughout the country; that during the period in 1946 when the products were manufactured, Federal inspectors inspected the plant at various times, particularly on September 19, 20, 23, and 24, and October 1, 4, 5, and 14, 1946, which inspections revealed that much of the raw stock being processed into these food products was wholly or partly rotten and infested with worms; that the physical condition of the plant was extremely insanitary; that the insanitary conditions were pointed out to defendant H. J. Henry, and repeated warnings were given to him to improve the raw material being processed and to remedy the defects in the method of operation; and that the defendants had failed to correct such methods of operation and continued to use rotten and wormy apples in the manufacture of the said products.

The complaint alleged further, on information and belief, that the defendants would continue to ship in interstate commerce, apple juice, apple cider, and fermented vinegar stock adulterated as stated hereinbefore, unless restrained from so doing, and prayed that the defendants be summoned to answer the complaint; that the court fix a time for hearing on this application for preliminary injunction, and issue such injunction after hearing; and that after due proceedings, the preliminary injunction be made permanent.

DISPOSITION: On February 24, 1947, pursuant to stipulation between the parties, a temporary restraining order heretofore issued by the court was continued in effect as a preliminary injunction, pending the disposition of the action on its merits. On April 25, 1947, the court entered a permanent injunction enjoining and restraining the defendants and all persons acting upon their behalf from introducing and delivering for introduction into interstate commerce from the Wester Vinegar Works at Canon City, Colo., any apple juice, apple cider, and fermented vinegar stock in violation of Section 301 (a) of the Act.

VEGETABLES*

17545. Action to enjoin and restrain the interstate shipment of adulterated and misbranded canned vegetables. U. S. v. Alabama Products Canning Co., Inc. Injunction granted. (Inj. No. 153.)

COMPLAINT FILED: October 11, 1946, Middle District of Alabama, against Alabama Products Canning Co., Inc., Roanoke, Ala.

NATURE OF CHARGE: That the defendant since 1939 had been engaged in the business of canning food products and shipping them in interstate commerce at Roanoke, Ala., which products included canned okra, turnip greens, peas, beans, sweetpotatoes, and other vegetables; that these products were adulterated within the meaning of Sections 402 (a) (3) and (4), in that they consisted

*See also Nos. 17537, 17543.

in whole or in part of filthy substances, were prepared and packed under insanitary conditions whereby they may have become contaminated with filth, and were misbranded within the meaning of Section 403 (g) (1), in that they failed to conform to the definitions and standards of identity for such products since they were not so processed by heat as to prevent spoilage.

The complaint alleged further that factory inspections revealed that okra, a nonacid vegetable, was being processed in an open kettle, which was contrary to the rules and regulations pertaining to proper canning methods; that the employee who did the processing was unskilled in the operation of a pressure retort; that a sample of the okra was examined and found to be nonsterile; and that approximately 10 percent of the No. 10 cans of okra stored in the firm's warehouse were swells.

The complaint alleged further that factory inspections revealed that over-mature, insect-damaged beans and field peas were in the process of being canned; that the table tops and wooden baskets used for handling the vegetables were not clean and were in a very insanitary condition; that an interstate shipment of canned sweetpotatoes had been examined and found to be undergoing active bacterial decomposition due to under processing; and that of 644 cases of this shipment seized at Atlanta, Ga., only 354 cases were fit for food, and the remainder was destroyed.

The complaint alleged the existence of further insanitary conditions, including rotten potatoes in an old peach washer; rodent-contaminated salt tablets; okra piled in the sun, some of it being three or more days old and covered with white mold and rapidly decomposing; a filthy hopper; canvas inspection belt encrusted with foul-smelling gum and debris; pans used to receive cut okra, setting in muddy water on the floor and nested after emptying and re-used without being washed; toilets located in a shed adjoining the cannery which were filthy, with flies circulating between the toilets and piles of raw vegetables which were in close proximity.

The complaint alleged further that of a shipment into the State of Georgia, 5.4 percent of the cans contained decomposed material, and the contents of other cans were not sterile; that of a shipment into the State of North Carolina, 8.33 percent of the cans were swells, the product being found to be decomposed; and that a shipment of canned turnip greens into the State of North Carolina was found to be undergoing progressive decomposition due to faulty processing.

The complaint prayed that the defendant be restrained from introducing and causing to be introduced and delivered for introduction into interstate commerce canned vegetables, including okra, turnip greens, peas, sweetpotatoes, and all other vegetables, which are adulterated and misbranded as alleged.

DISPOSITION: October 15, 1946, the matter came on for hearing before the court, and an injunction was entered restraining and enjoining the defendant and all persons acting on its behalf from introducing and delivering for introduction and causing to be introduced and delivered for introduction into interstate commerce food products, more particularly canned vegetables such as okra, turnip greens, peas, sweetpotatoes, and all other vegetables, which are adulterated and misbranded as alleged in the complaint. The court ordered further that the defendant make such necessary repairs to its building and equipment as would comply with the rules and regulations as prescribed by the Food and Drug Administration.

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

17546-17600

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *January 31, 1952.*

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